

Claims 1 through 27 are Not Anticipated by the Brenneman Reference

Legal precedent clearly establishes that “an anticipation rejection requires a showing that each limitation of the claim must be found in a single reference, practice, or device.” *In re Donohue*, 226 USPQ 619, 621 (Fed. Cir. 1985). Furthermore, “[f]or a prior art reference to anticipate, every element of the claimed invention must be *identically* shown in a single reference.” *In re Bond*, 15 USPQ 2d 1566, 1567-68 (Fed. Cir. 1990) (*emphasis added*).

Independent claims 1, 17, 21, and 26 are drawn to a test devices that each require, among other things, a plurality of sensors arranged in a stack or a stack of test strips. Moreover, each of these claims also requires a spring means which urges the stack toward the transport member.

The Office Action alleges that the Brenneman reference teaches of a device having multiple sensors (43) that read on the claimed plurality of sensors. However, as discussed above, each of claims 1, 17, 21, and 26 requires a *stack* of sensors or test strips. In contrast, the sensors or test strips of the Brenneman reference are arranged in a circumferential manner and are not therefore stacked upon each other as required by the above-mentioned claims. This is a significant difference because the arrangement of sensors in the device of the Brenneman reference significantly limits the number of sensors stored in the device due to the spatial separation between such sensors. Thus, a stack of sensors or test strips as claimed has appreciable advantages over the circumferential arrangement of the sensors disclosed in the Brenneman reference. Moreover, the device disclosed in the Brenneman reference would be inoperable with stacked sensors. Because the Brenneman reference fails to disclose or suggest any *stack* of sensors or test strips as recited in claims 1, 17, 21, and 26, the Brenneman reference fails to anticipate or make obvious any of claims 1, 17, 21, and 26.

Yet further, each of the independent claims 1, 17, 21, and 26 include among its limitations a spring means which urge the stack toward the transport member. The Office

Action also alleges that the slide actuator (42) disclosed in the Brenneman reference urges the stack of sensors toward the sensor pack (32) and that the sensor pack reads on the claimed transport member. However, as discussed above, the Brenneman reference fails to disclose any stack of sensors or any stack of test strips and therefore cannot possibly disclose or suggest the claimed spring means that performs the function of urging the stack toward the transport member. Moreover, the slide actuator disclosed in the Brenneman reference in fact urges the sensors *away from* rather than *toward* the alleged transport member. Thus, the Brenneman reference fails to disclose or suggest the spring means as claimed and therefore, for this additional and separate reason, fails to anticipate or make obvious any of claims 1, 17, 21, and 26.

Because the Brenneman reference fails to anticipate each of independent claims 1, 17, 21, and 26, it follows then that the remaining dependent claims 2-16, 18-20, 22-25, and 27 are also not anticipated by the Brenneman reference. Moreover, each of the limitations contained in these dependent claims have not been addressed in the Office Action and are not disclosed or suggested by the disclosure of the Brenneman reference. For example, claim 2 requires the sensors to be stacked within a magazine within the housing and the magazine to have a single opening which faces the transport member. The Office action fails to mention any such magazine being disclosed or suggested by the Brenneman reference and Applicant respectfully submits that no such magazine is disclosed or suggested therein. Likewise, claim 3, being dependent upon claim 2, requires this same limitation and further requires, among other things, a second end of the sealing means to locate in a groove in the transport member to form a seal therewith. As was the case with claim 2, the Office action fails to mention this limitation being disclosed in or suggested by the Brenneman reference and Applicant respectfully submits that no such limitation is disclosed or suggested therein. Yet further, claim 4, being dependent upon claims 2 and 3, requires these same limitations and further requires, among other things, a retractable sleeve sealingly engages in the groove of the transport member when in an

extended configuration and which does not form a seal with the transport member when in a retracted configuration. Again, the Office action fails to mention this limitation being disclosed in or suggested by the Brenneman reference and Applicant respectfully submits that no such limitation is disclosed or suggested therein. The remaining dependent claims also contain limitations, in addition to those of the independent claims, that are not disclosed in or suggested by the Brenneman reference. Thus, the dependent claims of the present application are further not anticipated nor disclosed by the Brenneman reference.

Conclusion

In view of the foregoing, Applicant submits that claims 1-27 are not anticipated by the Brenneman reference under §102 and respectfully requests that the rejections of claims 1-27 be reconsidered and withdrawn and the application allowed.

Respectfully submitted,



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